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of the State of California  
2 HOOMAN ROWSHAN  
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3 300 South Spring Street  
Los Angeles, CA 90013  
4 Telephone: (213) 897-2580

5 Attorneys for Complainant  
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7

8 BEFORE THE  
BOARD OF ACCOUNTANCY  
9 DEPARTMENT OF CONSUMER AFFAIRS  
STATE OF CALIFORNIA  
10

11 In the Matter of the Accusation )  
Against: )

NO. D1-87-544

12 HERBERT JEROME BERGHOFF )  
13 11310 Shoshone Avenue )  
Granada Hills, CA 91344 )

STIPULATION, DECISION  
AND ORDER FOR SURRENDER

14 Certified Public Accountant )  
15 Certificate No. CPA 14493 )

16 Respondent. )  
17

18 It is hereby stipulated by the parties that:

19 1. Carol Sigmann is the Executive Officer of the  
20 Board of Accountancy (hereinafter referred to as the board) of  
21 the Department of Consumer Affairs of the State of California and  
22 makes and files this accusation solely in her official capacity.

23 2. On April 23, 1969, the board issued to  
24 Herbert Jerome Berghoff (hereinafter respondent) certified public  
25 accountant certificate number CPA 14493 for the practice of  
26 public accountancy. The certificate is in full force and effect  
27 and expires, subject to renewal, August 1, 1994.

1                   3.     Business and Professions Code section 5051  
2 provides that the practice of public accountancy is the use of  
3 knowledge and science of accounting; the delivery for  
4 compensation of professional services that involve or require an  
5 audit, examination, verification, investigation, certification,  
6 presentation, or review, of financial transactions and accounting  
7 records; the preparation or certification of client reports on  
8 audits or examinations of books or records of account, balance  
9 sheets, and other financial, accounting and related schedules,  
10 exhibits, statements, or reports which are to be used for  
11 publication or for the purpose of obtaining credit or for filing  
12 with a court of law or with a governmental agency, or for any  
13 other purpose; the delivery of professional services that relate  
14 to accounting and the recording, presentation, or certification  
15 of financial information or data; the maintenance of client  
16 books, trial balances, statements, audits, reports, or  
17 bookkeeping; the preparation of client tax return; the  
18 preparation of personal financial or investment plans or the  
19 products or services of others that implement a personal  
20 financial or investment plan; and the delivery of client  
21 management consulting services.

22                   4.     Pursuant to Business and Professions Code section  
23 5100 the board may revoke, suspend or refuse to renew the permit  
24 or certificate of a certified public accountant, or may censure  
25 the holder of a permit or certificate for unprofessional conduct.

26                   5.     Business and Professions Code section 5100  
27 provides at subsection (h) that unprofessional conduct includes

1 fiscal dishonesty or breach of fiduciary responsibility of any  
2 kind.

3           6. Business and Professions Code section 5100  
4 provides at subsection (j)<sup>1/</sup> that unprofessional conduct includes  
5 embezzlement, theft, misappropriation of funds or property or  
6 obtaining money, property or other valuable consideration by  
7 fraudulent means or false pretenses.

8           7. Business and Professions Code section 5018 permits  
9 the Board, by regulation, to prescribe, amend or repeal rules of  
10 professional conduct appropriate to the establishment and  
11 maintenance of a high standard of integrity and dignity in the  
12 profession.

13           8. Title 16, California Code of Regulations section  
14 60 provides that a licensee shall not engage in conduct which  
15 constitutes fiscal dishonesty or breach of fiduciary  
16 responsibility of any kind.

17           9. Respondent is subject to discipline by the board  
18 pursuant to Business and Professions Code sections 5100(h),  
19 formally 5100(j), and Title 16, California Code of Regulations  
20 section 60, by reason of the following facts:

21           A. Respondent is a partner at the accounting  
22 offices of Berghoff, Abraham, Friedman and Johnson.

23           B. During the period May 1, 1989 to  
24 September 20, 1992, respondent was the custodian of  
25 three client trust accounts identified as Trust 1,  
26

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27           1. Business and Professions Code section 5100(j),  
formally 5100(h)(2), was re-lettered in 1990.

1 Trust 2, and Trust 3, all maintained at Metro Bank in  
2 Woodland Hills.

3 C. During the period of May 1, 1989 to September 20,  
4 1992, without the client's knowledge or permission,  
5 respondent frequently removed funds from trust accounts 1, 2  
6 and 3, for his own personal use or to cover the shortages of  
7 funds in other trust accounts under his control and  
8 management.

9 D. During the above-mentioned period, respondent  
10 appropriated approximately \$104,000, from the said  
11 trust accounts, for his own use in violation of the  
12 trust documents.

13 10. Respondent previously has been found guilty of  
14 unprofessional conduct and disciplined by the board, in the  
15 following particulars:

16 A. Effective July 1, 1988, in the case entitled  
17 In the Matter of the Accusation Against Herbert Jerome  
18 Berghoff, Case No. 544, before the California Board of  
19 Accountancy, respondent was placed on three years  
20 probation.

21 B. The discipline in said case was based on  
22 violations of Business and Professions Code sections  
23 5100(f) and 5100(c) involving acts of dishonesty and  
24 gross negligence.

25 11. Business and Professions Code section 5107  
26 provides that in any order issued in resolution of a disciplinary  
27 proceeding before the board, the executive officer of the board

1 may request the administrative law judge to direct the  
2 certificate holder found to have violated Business and  
3 Professions Code section 5100 to pay to the board a sum not to  
4 exceed the actual and reasonable costs of the investigation and  
5 prosecution of the matter, including attorneys' fees.

6           12. Respondent is aware of his right to a full and  
7 complete hearing on the charges and allegations contained in the  
8 accusation, his right to reconsideration, appeal, and all other  
9 rights which may be afforded him by the California Administrative  
10 Procedures Act in connection with this accusation. Respondent  
11 acknowledges receipt of his rights under the California  
12 Administrative Procedures Act. For purposes of this stipulation,  
13 respondent freely and voluntarily waives his right to a hearing,  
14 his right to reconsideration, to appeal and to any and all rights  
15 afforded him by the California Administrative Procedure Act and  
16 any other law governing Accusation No. D1-87-544.

17           13. Respondent admits the charges in Accusation  
18 No. D1-87-544. <sup>ms.</sup>

19           14. Based on the foregoing admissions, stipulations,  
20 and recital, it is agreed by the parties that the Board of  
21 Accountancy may issue the following decision and order:


22                           DISCIPLINARY ORDER

23           1. Respondent will, not later than the effective date  
24 of the Board's decision and order, surrender to the Board at its  
25 offices in Sacramento, California, his wall certificate and his  
26 wallet identification card, and any other indicia of licensure as  
27 a certified public accountant.

1           2.    Upon acceptance by the Board of this stipulation  
2 for surrender, the certified public accountant certificate number  
3 14493 issued to Herbert Jerome Berghoff shall be cancelled  
4 without further notice or proceedings.

5           3.    It is further ordered that in the event respondent  
6 ever reapplies to the Board for any certificate or license to  
7 practice public accountancy, this stipulation shall be admitted  
8 as evidence in any proceeding of the Board as direct and  
9 competent of respondent's admission that the charges and  
10 allegations set forth in Accusation No. D1-87-544 are factually  
11 true and correct, and that the appropriate penalty for said  
12 charges and allegations would have been revocation of his  
13 certificate to practice public accountancy.

14           4.    Respondent is directed to reimburse the Board of  
15 Accountancy \$6,080.56 for the cost of investigation and  
16 prosecution of this matter. Said amount shall be remitted to the  
17 Board no later than thirty (30) days from the effective date of  
18 this disciplinary order.

19  
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21   
22 HOOMAN ROWSHAN  
23 Deputy Attorney General  
24 Attorney for the Complainant

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26 HERBERT JEROME BERGOFF  
27 Respondent

28 Dated: Sept. 2, 1994

Dated: September 3, 1994

DECISION AND ORDER

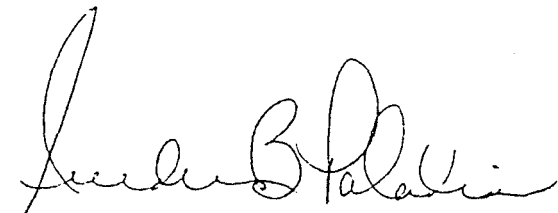
The Board of Accountancy hereby accepts the accompanying stipulation for surrender of Certified Public Accountant Certificate Number 14493 issued to Herbert Jerome Berghoff.

IT IS ORDERED that Certified Public Accountant Certificate Number 14493 be cancelled.

Dated and signed the 1st day of November, 1994.

Effective December 1, 1994

By:



Board of Accountancy  
Department of Consumer Affairs  
State of California

c:\wp\green2\berghoff.ba

1 DANIEL E. LUNGREN, Attorney General  
of the State of California  
2 HOOMAN ROWSHAN  
Deputy Attorney General  
3 300 South Spring Street  
Los Angeles, CA 90013  
4 Telephone: (213) 897-2574

5 Attorneys for Complainant

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8 BEFORE THE  
BOARD OF ACCOUNTANCY  
9 DEPARTMENT OF CONSUMER AFFAIRS  
STATE OF CALIFORNIA  
10

11 In the Matter of the Accusation	)	NO. D1-87-544
Against:	)	
12	)	
HERBERT JEROME BERGHOFF	)	ACCUSATION
13 11310 Shoshone Avenue	)	
Granada Hills, CA 91344	)	
14	)	
Certified Public Accountant	)	
15 Certificate No. CPA 14493	)	
16	)	
Respondent.	)	

17  
18 Complainant, Carol Sigmann, alleges:

- 19 1. She is the Executive Officer of the Board of  
20 Accountancy (hereinafter referred to as the board) of the  
21 Department of Consumer Affairs of the State of California and  
22 makes and files this accusation solely in her official capacity.
- 23 2. On April 23, 1969, the board issued to  
24 Herbert Jerome Berghoff (hereinafter respondent) certified public  
25 accountant certificate number CPA 14493 for the practice of  
26 public accountancy. The certificate is in full force and effect  
27 and expires, subject to renewal, August 1, 1994.



1                   3.     Business and Professions Code section 5051  
2 provides that the practice of public accountancy is the use of  
3 knowledge and science of accounting; the delivery for  
4 compensation of professional services that involve or require an  
5 ~~audit, examination, verification, investigation, certification,~~  
6 presentation, or review, of financial transactions and accounting  
7 records; the preparation or certification of client reports on  
8 audits or examinations of books or records of account, balance  
9 sheets, and other financial, accounting and related schedules,  
10 exhibits, statements, or reports which are to be used for  
11 publication or for the purpose of obtaining credit or for filing  
12 with a court of law or with a governmental agency, or for any  
13 other purpose; the delivery of professional services that relate  
14 to accounting and the recording, presentation, or certification  
15 of financial information or data; the maintenance of client  
16 books, trial balances, statements, audits, reports, or  
17 bookkeeping; the preparation of client tax return; the  
18 preparation of personal financial or investment plans or the  
19 products or services of others that implement a personal  
20 financial or investment plan; and the delivery of client  
21 management consulting services.

22                   4.     Pursuant to Business and Professions Code section  
23 5100 the board may revoke, suspend or refuse to renew the permit  
24 or certificate of a certified public accountant, or may censure  
25 the holder of a permit or certificate for unprofessional conduct.

26                   5.     Business and Professions Code section 5100  
27 provides at subsection (h) that unprofessional conduct includes

1 fiscal dishonesty or breach of fiduciary responsibility of any  
2 kind.

3           6. Business and Professions Code section 5100  
4 provides at subsection (j)<sup>1/</sup> that unprofessional conduct includes  
5 embezzlement, theft, misappropriation of funds or property or  
6 obtaining money, property or other valuable consideration by  
7 fraudulent means or false pretenses.

8           7. Business and Professions Code section 5018 permits  
9 the Board, by regulation, to prescribe, amend or repeal rules of  
10 professional conduct appropriate to the establishment and  
11 maintenance of a high standard of integrity and dignity in the  
12 profession.

13           8. Title 16, California Code of Regulations section  
14 60 provides that a licensee shall not engage in conduct which  
15 constitutes fiscal dishonesty or breach of fiduciary  
16 responsibility of any kind.

17           9. Respondent is subject to discipline by the board  
18 pursuant to Business and Professions Code sections 5100(h),  
19 formally 5100(j), and Title 16, California Code of Regulations  
20 section 60, by reason of the following facts:

21           A. Respondent is a partner at the accounting  
22 offices of Berghoff, Abraham, Friedman and Johnson.

23           B. During the period May 1, 1989 to September  
24 20, 1992, respondent was the custodian of three client  
25 trust accounts identified as Trust 1, Trust 2, and  
26

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27           1. Business and Professions Code section 5100(j),  
formally 5100(h)(2), was re-lettered in 1990.

1 Trust 3, all maintained at Metro Bank in Woodland  
2 Hills.

3 C. During the period of May 1, 1989 to September 20,  
4 1992, without the client's knowledge or permission,  
5 ~~respondent frequently removed funds from trust accounts 1, 2~~  
6 and 3, for his own personal use or to cover the shortages of  
7 funds in other trust accounts under his control and  
8 management.

9 D. During the above-mentioned period, respondent  
10 appropriated approximately \$104,000, from the said  
11 trust accounts, for his own use in violation of the  
12 trust documents.

13 Matters in Aggravation

14 10. Not as an independent ground for disciplinary  
15 action, but as enhancement of any discipline that may be imposed  
16 in this action, complainant alleges that respondent previously  
17 has been found guilty of unprofessional conduct and disciplined  
18 by the board, in the following particulars:

19 A. Effective July 1, 1988, in the case entitled  
20 In the Matter of the Accusation Against Herbert Jerome  
21 Berghoff, Case No. 544, before the California Board of  
22 Accountancy, respondent was placed on three years  
23 probation.

24 B. The discipline in said case was based on  
25 violations of Business and Professions Code sections  
26 5100(f) sf 5100(c) involving acts of dishonesty and  
27 gross negligence.

11. Business and Professions Code section 5107 provides that in any order issued in resolution of a disciplinary proceeding before the board, the executive officer of the board may request the administrative law judge to direct the ~~certificate holder found to have violated Business and Professions Code section 5100~~ to pay to the board a sum not to exceed the actual and reasonable costs of the investigation and prosecution of the matter, including attorneys' fees.


NOTICE IS HEREBY GIVEN respondent that pursuant to Business and Professions Code section 5107, complainant hereby requests the administrative law judge to direct respondent if found in violation, to pay to the board the reasonable costs of the investigation and prosecution of this matter.

1. Revoking or suspending Certified Public Accountant certificate number CPA 14493 issued to Herbert Jerome Berghoff.

2. Directing respondent to pay to the Board of Accountancy the reasonable costs of the investigation and prosecution of this matter.

3. Taking such other and further action as may be deemed proper and appropriate.

DATED: September 14, 1993

  
CAROL SIGMANN  
Executive Officer  
Board of Accountancy  
Department of Consumer Affairs  
State of California

Complainant

1 JOHN K. VAN DE KAMP, Attorney General  
2 of the State of California  
3 GARY WITTENBERG,  
4 Deputy Attorney General  
5 3580 Wilshire Boulevard  
6 Los Angeles, California 90010  
7 Telephone: (213) 736-3511

8 Attorneys for Complainant

9 BEFORE THE  
10 BOARD OF ACCOUNTANCY  
11 DEPARTMENT OF CONSUMER AFFAIRS  
12 STATE OF CALIFORNIA

13 In the Matter of the Accusation ) NO. 544  
14 Against: )  
15 HERBERT JEROME BERGHOFF ) STIPULATION IN  
16 15515 San Fernando Mission Blvd. ) SETTLEMENT AND ORDER  
17 Mission Hills, CA 91345 )  
18 License No. 14493E, )  
19 Respondent. )  
20 \_\_\_\_\_ )

21 IT IS HEREBY STIPULATED by and between Della Bousquet,  
22 Executive Officer of the Board of Accountancy, by and through  
23 her attorney John K. Van De Kamp, Attorney General of the State  
24 of California, by deputy attorney general Gary Wittenberg, and  
25 respondent Herbert Jerome Berghoff by and through his attorney  
26 Richard M. Rosenthal, as follows:

27 1. Respondent Herbert Jerome Berghoff (hereinafter  
"respondent") has received and read the accusation which is  
presently on file and pending in case number 544 before the  
Board of Accountancy of the State of California (hereinafter the  
"board").

1           2. Respondent has retained Richard M. Rosenthal, 5900  
2 Sepulveda Blvd., Van Nuys, California to be his attorney in case  
3 number 544 and has counseled with him concerning the effect of  
4 this stipulation.

5           3. Respondent has read and reviewed the accusation in  
6 case number 544 which is attached hereto as exhibit "A" and is  
7 incorporated by this reference and has discussed its contents  
8 with his counsel. Respondent understands the nature of the  
9 charges alleged against him in the accusation as constituting  
10 causes for imposing discipline upon his license.

11           4. Respondent is fully aware of his rights to a hearing  
12 of the charges and allegations contained in said accusation, his  
13 right to reconsideration, appeal, and to any and all other  
14 rights which may be accorded him pursuant to the California  
15 Administrative Procedure Act and Code of Civil Procedure and  
16 that respondent hereby freely and voluntarily waives his rights  
17 to a hearing, to reconsideration, to appeal, and to any and all  
18 other rights which may be accorded him by the California  
19 Administrative Act and Code of Civil Procedure with regard to  
20 said accusation in case number 544.

21           5. Respondent in a desire to resolve and compromise the  
22 matter and issues herein and for no other reason stipulates and  
23 admits that the allegations set forth in paragraphs 1, 2, 6, 7  
24 and 8 of the accusation in case number 544 are true and correct.

25           6. Respondent stipulates and acknowledges that the  
26 board has incurred substantial investigative and legal costs in  
27 this pending matter, in a sum in excess of \$4,142.64, which

1 respondent agrees he will reimburse the board in the amount of  
2 \$4,142.64.

3 DETERMINATION OF ISSUES

4 1. Based on the foregoing stipulated facts and  
5 admissions cause has been established to discipline respondent's  
6 license for violation of Business and Professions Code section  
7 5100, subdivisions (c) and (f), and Title 16, California  
8 Administrative Code sections 56, 57 as written prior to May 13,  
9 1983.

10 WHEREFORE, it is stipulated and agreed that the  
11 following order may be issued by the board:

12 Respondent's license, certificate number 14493E, as a  
13 certified public accountant, is revoked; however, said  
14 revocation is stayed and respondent shall be placed on probation  
15 for a period of three (3) years with the following terms and  
16 conditions:

17 1. Respondent's certificate number 14493E is actually  
18 suspended for a period of sixty (60) days commencing on the  
19 first day of July 1988.

20 2. Respondent shall obey all federal, California, other  
21 U.S. states and local laws including those rules relating to  
22 the practice of public accountancy in California.

23 3. Respondent shall submit quarterly written reports to  
24 the board on a form provided by the board.

25 4. Respondent shall comply with all citations.

26 5. Respondent shall make personal appearances and  
27 report to the Administrative Committee at the board's

1 notification, provided such notification is accomplished in a  
2 timely manner.

3 6. Respondent shall cooperate fully with the Board of  
4 Accountancy, and any of its agents or employees in their  
5 supervision and investigation of his compliance with the terms  
6 and conditions of this probation including the Board's  
7 Probation Surveillance Compliance Program.

8 7. Respondent shall reimburse the board for  
9 investigation and prosecution costs in the amount of \$4,142.64  
10 in accordance with the payment schedule attached hereto as  
11 Exhibit B which is incorporated by reference.

12 8. In the event respondent should leave California to  
13 reside or practice outside this state, respondent must notify  
14 the board in writing of the dates of departure and return.  
15 Periods of residency or practice outside the state shall not  
16 apply to reduction of the probationary period.

17 9. If respondent violates probation in any respect, the  
18 board, after giving respondent notice and an opportunity to be  
19 heard, may revoke probation and carry-out the disciplinary order  
20 which was stayed. If an accusation or a petition to revoke  
21 probation is filed against respondent during probation, the  
22 board shall have continuing jurisdiction until the matter is  
23 final, and the period of probation shall be extended until the  
24 matter is final.

25 10. Respondent shall be subject to, and shall permit, a  
26 general review of the respondent's professional practice. Such  
27 review shall be conducted by representatives of the board



1 whenever designated by the Administrative Committee, provided  
2 notification of such review is accomplished in a timely manner.

3 11. Respondent shall make restitution to Michael  
4 Stewart in the amount of \$4,271.05, in accordance with the  
5 payment schedule attached hereto as Exhibit B which is  
6 incorporated by this reference and shall provide the board with  
7 a written release from Michael Stewart attesting the full  
8 restitution has been paid.

9 12. Respondent shall make restitution to Anthony  
10 Petralia in the amount of \$887.36 in accordance with the payment  
11 schedule attached hereto as Exhibit B which is incorporated by  
12 this reference and shall provide the board with a written  
13 release from Anthony Petralia attesting the full restitution has  
14 been paid. Respondent shall also reduce Anthony Petralia's  
15 account balance owed to respondent to \$0.00.

16 13. Respondent shall take and pass a board approved  
17 ethics examination by December 31, 1988.

18 14. Respondent shall complete professional education  
19 courses by December 31, 1988. This shall be in addition to CPE  
20 requirements for relicensing.

21 15. Respondent shall complete professional education  
22 courses as specified by the Administrative Committee, as may be  
23 appropriate at time of respondent's first appearance before the  
24 Administrative Committee by December 31, 1988. This shall not  
25 be in addition to CPE requirements for relicensing.

26 /

27 /

1           16. During the period of probation, if the respondent  
2 undertakes an examination, review or compilation engagement, the  
3 resultant financial statements and all related working papers  
4 related to one sample of each of the above categories must be  
5 submitted to and reviewed by the Administrative Committee or  
6 their designated agent for compliance with current professional  
7 financial reporting standards of the board as set forth in the  
8 California Administrative Code, Title 16, Chapter 1, sections  
9 58-58.3 before release thereof.

10           If the financial statements do not comply with the  
11 provisions of the California Administrative Code, Title 16,  
12 Chapter 1, sections 58-58.3,1 then probationer must make all  
13 necessary corrections or withdraw from the engagement without  
14 issuing the report.

15           17. The board shall not initiate publication of the  
16 circumstances justifying discipline if such disclosure names the  
17 respondent. This does not limit or preclude the board from  
18 complying with the Public Records Act (Gov. Code sec. 6250 et  
19 seq.) or from otherwise disclosing information regarding  
20 respondent as required by law.

21           18. During the sixty (60) day period of suspension,  
22 respondent shall engage in no conduct for which certification  
23 as a certified public accountant is required. Nor shall  
24 respondent represent himself either explicitly or implicitly as  
25 a certified public accountant during said period of suspension.

26           19. This stipulation shall be of no force and effect  
27 until adopted by the Board of Accountancy.

1                   20. Upon successfully completing the period of  
2 probation, respondent's certificate shall be fully restored.

3                   DATED: April 25, 1988

4                   JOHN K. VAN DE KAMP, Attorney General  
5                   of the State of California  
6                   GARY WITTENBERG,  
7                   Deputy Attorney General

8                   By Gary Wittenberg  
9                   GARY WITTENBERG  
10                  Deputy Attorney General

11                  Attorneys for Complainant

12                  DATED: April 25, 1988

13                  Richard M. Rosenthal  
14                  RICHARD M. ROSENTHAL, Esq.

15                  Attorney for Respondent

16                               \*   \*   \*   \*   \*   \*   \*

17                  I have read the within stipulation, have discussed it  
18 with my counsel, and its terms are understood by me and are  
19 agreeable and acceptable to me. I understand that I am waiving  
20 certain rights accorded me by the California Administrative  
21 Procedure Act, and I willingly, intelligently, and voluntarily  
22 waive those rights. I understand that by the terms of this  
23 stipulation, my license is to be revoked but said revocation is  
24 stayed and my license is actually suspended for a period of  
25 sixty (60) days and placed on probation for three years on terms  
26 and conditions by decision and order upon this stipulation.

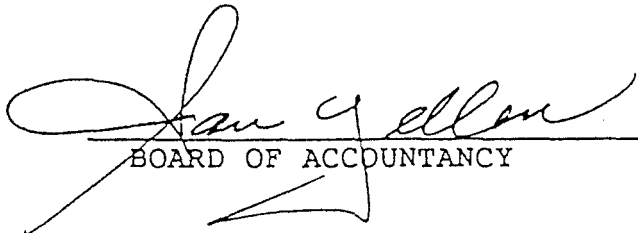
27                  DATED: April 25, 1988

Herbert Jerome Berghoff  
HERBERT JEROME BERGHOFF  
Respondent

1 DECISION AND ORDER

2 The foregoing stipulation for settlement is hereby  
3 adopted by the Board of Accountancy as its decision and order  
4 and shall become effective on July 1st, 1988.

5 DATED: 06/20/88.

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7   
8 BOARD OF ACCOUNTANCY  
9

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24 GW:jrz  
25 a:@berghoff.gw  
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27

1 JOHN K. VAN DE KAMP, Attorney General  
of the State of California  
2 ANTONIO J. MERINO,  
Deputy Attorney General  
3 GARY WITTENBERG,  
Graduate Legal Assistant  
4 3580 Wilshire Boulevard  
Los Angeles, California 90010  
5 Telephone: (213) 736-3511  
6 Attorneys for Complainant

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9 BEFORE THE  
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DEPARTMENT OF CONSUMER AFFAIRS  
11 STATE OF CALIFORNIA

12 In the Matter of the Accusation ) NO. 544  
Against: )  
13 HERBERT JEROME BERGHOFF ) ACCUSATION  
11310 Shoshone Avenue )  
14 Granada Hills, CA 91344 )  
Certificate No. 14493E, )  
15

16 Complainant alleges as follows:

17 1. Complainant Della Bousquet is the Executive Officer  
18 of the Board of Accountancy of the State of California  
19 (hereinafter referred to as the "board") and makes and files this  
20 accusation solely in her official capacity.

21 2. On or about April 23, 1969 respondent Herbert Jerome  
22 Berghoff (hereinafter referred to as "respondent") was issued  
23 certified public accountant certificate number 14493E by the  
24 board. Said certificate is currently in full force and effect  
25 through July 31, 1988.

26 3. Business and Professions Code section 5100 provides  
27 that after notice and hearing the board may revoke, suspend or

1 refuse to renew any certificate granted under Article 4 or 5 or  
2 may censure the holder of any such certificate for any one or  
3 combination of the following reasons:

4 ". . .

5 "(c) Dishonesty, fraud, or gross negligence in the  
6 practice of public accountancy or in the performance of the  
7 bookkeeping operations described in section 5052.

8 ". . .

9 "(f) Wilful violation of a rule or regulation  
10 promulgated by the board under the authority granted under  
11 this chapter."

12 4. Prior to May 13, 1983 Title 16, California  
13 Administrative Code, section 56, a rule and regulation of the  
14 board (hereinafter said rules and regulations which appear in  
15 title 16 of the California Administrative Code will be designated  
16 "Rule \_\_\_\_\_") provided in pertinent part as follows:

17 "A licensee of the board shall not . . . accept a  
18 commission for a referral to a client of products or  
19 services of others . . ."

20 5. Prior to May 13, 1983 Rule 57 provided that "a  
21 licensee who is engaged in the practice of public accountancy  
22 shall not concurrently engage in any business or occupation  
23 which impairs his objectivity in rendering professional  
24 services."

25 6. Respondent's certificate is subject to disciplinary  
26 action pursuant to Business and Professions Code section 5100(c)  
27 in that he has committed acts of dishonesty and gross negligence

1 in the practice of public accountancy or in the performance of  
2 the bookkeeping operations described in section 5052. The  
3 circumstances are as follows:

4 A. Respondent permitted his non-licensed employee to  
5 decide to delay his client Michael Stewart's 1981 tax  
6 returns and obtain extensions through August 1982.  
7 Respondent failed to adequately supervise his employee or  
8 ensure that his client's returns were timely filed.

9 B. Respondent's client, Anthony J. Petralia, invested  
10 in a limited partnership known as "Project 10" with respondent  
11 and others. On or about January 18, 1986, Project 10 issued  
12 check number 1798 payable to Anthony Petralia and Berghoff  
13 Enterprises in the amount of \$887.36. Without Mr. Petralia's  
14 knowledge, consent or authority, Berghoff Enterprises caused  
15 Mr. Petralia's endorsement to be placed on said check. The  
16 check was deposited in the account of Herbert J. Berghoff, an  
17 accountancy corporation. Respondent failed to ensure that his  
18 client received the check and did not offer to refund the  
19 amount received upon obtaining knowledge of the transaction.

20 C. Respondent failed to file partnership returns of  
21 a partnership for which he was responsible. To wit, "Lot  
22 100, LTD," a general partnership entered in on or about  
23 September 26, 1979.

24 7. Respondent's certificate is subject to discipline  
25 pursuant to Business and Professions Code section 5100(f) and  
26 Rule 56 in that he received a commission for a referral to a  
27 client of products or services of others, to wit, respondent

1 received check number 485 in the amount of \$13,523.20 dated  
2 March 31, 1982 from Allison Exploration Corporation for referral  
3 of clients.

4 8. Respondent's certificate is subject to discipline  
5 pursuant to Business and Professions Code section 5100(f) and  
6 Rule 57 in that he engaged in businesses concurrent with the  
7 practice of public accounting which impaired his objectivity in  
8 rendering professions services. The circumstances are as  
9 follows:

10 A. Respondent advised his client Michael Stewart to  
11 invest in a partnership, "LOT 100, LTD," in which he was a  
12 general partner.


13 B. Respondent advised his client, Michael Stewart to  
14 invest in a partnership, Allison Oil, in which he was a  
15 partner and received a commission for said referral.

16 WHEREFORE, the complainant requests that the board hold a  
17 hearing on the matters alleged in the accusation and following  
18 said hearing issue a decision:

19 1. Revoking or suspending Certificate No. 14493E  
20 heretofore issued to respondent Herbert J. Berghoff; and

21 2. Taking such other and further action as the board  
22 deems necessary.

23 DATED: 7/28/87.

24   
25 DELLA BOUSQUET  
26 Executive Officer  
27 Board of Accountancy  
State of California

a:@berghoff.gw

Complainant